

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MEDTECH PRODUCTS INC.,)	
Plaintiff,)	
v.)	
RANIR, LLC AND CVS PHARMACY, INC.,)	
Defendants.)	
)	
MEDTECH PRODUCTS INC.,)	Civil Action No. 07 CV 3302 (KMK)(LMS)
Plaintiff,)	
v.)	
DENTEK ORAL CARE, INC.,)	
KELLY M. KAPLAN,)	
RAY DAUNE, AND)	
C.D.S. ASSOCIATES, INC.)	
Defendants.)	
)	
MEDTECH PRODUCTS INC.,)	
Plaintiff,)	
v.)	
POWER PRODUCTS, INC.,)	
d/b/a/ SPLINTEK,)	
Defendant.)	
)	

**PLAINTIFF MEDTECH PRODUCTS INC.'S REPLY MEMORANDUM OF LAW IN
SUPPORT OF ITS MOTION TO STRIKE DENTEK ORAL CARE, INC.'S MOTION
AND MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR (A) PARTIAL
DISMISSAL OF THE SECOND AMENDED COMPLAINT AND (B) ENTRY OF A
PROTECTIVE ORDER AND ORDER COMPELLING DISCLOSURE OF ALLEGED
TRADE SECRETS**

Plaintiff Medtech Products Inc. ("Medtech") respectfully submits this Reply Memorandum of Law in Support of its Motion to Strike. Because the Court did not hear oral argument on the Motion to Strike at the hearing on December 21, 2007, Medtech submits its Reply to this Motion.

Upon review of the Response to the Motion to Strike filed by DenTek, it is apparent that the rationale set forth by DenTek supporting its use of the improperly referenced exhibits in its Motion to Dismiss does little more than clarify the fact that those exhibits were referenced for improper purposes. Therefore, there is no reply needed from Medtech for the majority of the arguments found in DenTek's Response. However, in an attempt to cure the untimely nature of the internet website exhibits referenced in its Motion to Dismiss, most of which were accessed and printed only a few weeks ago but were presented to this Court as evidence of what information was publicly available over a year ago, DenTek compounds its authentication problem by filing the Declaration of Greg Sieczkiewicz, an attorney with counsel for DenTek (the "Sieczkiewicz Declaration"). The apparent purpose of the Sieczkiewicz Declaration is to prove that the website exhibits improperly referenced in DenTek's Motion to Dismiss existed in the same form at the time period relevant to this litigation, and to support this argument the Sieczkiewicz Declaration attaches exhibits from the "Wayback Machine" that were accessed and printed by Attorney Sieczkiewicz on December 17, 2007.

It is well-settled that documents from the "Wayback Machine" are inadmissible without some form of verification as to their authenticity. *See, e.g., Novak v. Tucows, Inc.*, No. 06-CV-1909, 2007 WL 922306, *5 (E.D.N.Y. Mar. 26, 2007) ("As [the plaintiff] proffers neither testimony nor sworn statements attesting to the authenticity of the contested [Wayback Machine] web page exhibits by any employee of the companies hosting the sites from which plaintiff printed the pages, such exhibits cannot be authenticated as required under the Rules of Evidence."). In fact, this very issue was addressed by District Judge Karas only a few months ago, and exhibits consisting of printouts from the "Wayback Machine" were found to have "fatal problems of authentication" *Chamilia, LLC v. Pandora Jewelry, LLC*, No. 04-CV-6017,

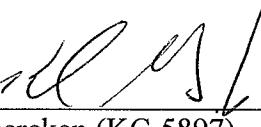
2007 WL 2781246, *6, n.4 (S.D.N.Y. Sept. 24, 2007). As such, DenTek's reliance on the Sieczkiewicz Declaration and accompanying exhibits does nothing to remedy the improper nature of the exhibits referenced in DenTek's Motion to Dismiss, and accordingly Medtech's Motion to Strike should be granted.

Dated: January 2, 2008

New York, New York

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PLAINTIFF MEDTECH PRODUCTS INC.'S REPLY MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO STRIKE DENTEK ORAL CARE, INC.'S MOTION AND MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR (A) PARTIAL DISMISSAL OF THE SECOND AMENDED COMPLAINT AND (B) ENTRY OF A PROTECTIVE ORDER AND ORDER COMPELLING DISCLOSURE OF ALLEGED TRADE SECRETS was served this 2nd day of January, 2008, by emailing and mailing a copy of the same in a postage-paid first-class envelope addressed as follows:

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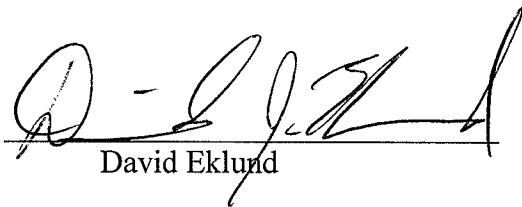
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A handwritten signature in black ink, appearing to read "D. Eklund".

David Eklund